

Open and Public Meetings Act

A Summary of Key Provisions | June 2019

The Open and Public Meetings Act (OPMA) requires that members of a public body be “provided with annual training on the requirements of [the Open and Public Meetings Act]” (Section 52-4-104). This document is intended to facilitate compliance with that requirement. Key terms are defined at the end of the document.

OPMA's stated goal is to ensure that the state, its agencies, and its political subdivisions deliberate and take action openly (Section [52-4-102](#)). Requires all meetings to be open to the public, unless, there is a statutory allowed purpose for closure (Section [52-4-201](#)).

Public Notice

(Section [52-4-202](#))

A public body is required to provide public notice of a meeting at least 24 hours before the meeting. The public notice is required to:

- specify the date, time, and place of the meeting;
- include an agenda that specifies the topics the public body will consider;
- be posted on the Utah Public Notice Website and at the location of the meeting; and
- be provided to a newspaper or local media correspondent.

A public body may discuss an item raised by the public that is not listed on the agenda but may not take final action on the item at the meeting.

Minutes and Recordings

(Section [52-4-203](#))

- A public body is required to keep written minutes and an audio recording of all meetings unless the meeting is a site visit or traveling tour where no vote or action is taken.
- A recording of the open portions of the meeting must be posted on the Utah Public Notice Website within three business days after the public meeting.
- Draft minutes are required to be made available to the public within 30 days after the meeting.
- The approved minutes and any public materials distributed at the meeting must, within three business days after their approval, be:
 - posted on the Utah Public Notice Website; and
 - made available at the public body's office.

2019 Amendments to OPMA

- [2019 S.B. 27](#) authorizes a governmental nonprofit corporation to close a meeting to discuss trade secrets under certain circumstances.
- [2019 S.B. 72](#) provides clarification regarding the application of OPMA to a quorum of a large public transit district.
- [2019 S.B. 165](#) amends the definition of “quorum” so that a quorum is not present when two elected members of a three-member public body meet if they take no action, regardless of whether the action relates to a subject over which the public body has advisory power.

Closed Meetings

(Sections [52-4-204](#), [52-4-205](#) and [52-4-206](#))

A public body may vote to hold a closed meeting only for certain purposes, including to discuss:

- a person's character, competence, or health;
- pending or imminent litigation;
- certain matters regarding acquisition or sale of real property, including water rights or shares;
- the deployment of security personnel, devices, or systems;
- an investigation of alleged criminal conduct;
- collective bargaining;
- certain deliberations involving trade secrets involving procurement; and
- certain other deliberations and decision making involved in the procurement process.

A public body may close a meeting only by a two-thirds vote with a quorum present, except that a majority vote is sufficient for closing a meeting of:

- the Health and Human Services Interim Committee to review a fatality review report;
- the Child Welfare Legislative Oversight Panel to review a fatality review report/individual case; or
- a Legislature ethics committee to receive legal advice or deliberate on a complaint.

A public body that closes a meeting is required to announce and record in the minutes the reasons for closing the meeting.

An ordinance, resolution, rule, regulation, contract, or appointment may not be approved during the closed portion of a meeting.

Record of Closed Meetings – If a public body closes a meeting, it still must keep written minutes and an audio recording. Exceptions are, if the meeting is closed to discuss a person's character, competence, or health; the deployment of security personnel, devices, or systems; or specific legislative or HHS oversight purposes. The presiding person must sign a sworn affidavit affirming the reason for closing the meeting. Records in these closed meetings are protected under GRAMA.

Emergency Meetings

(Section [52-4-202](#))

A public body may hold an emergency meeting and is not required to give 24-hour notice if unforeseen

circumstances arise that require the public body to consider matters of an emergency or urgent nature. However, a public body may not hold an emergency meeting unless it attempts to notify all members of the public body and a majority of its members approve the meeting.

Electronic Meetings

(Sections [52-4-207](#))

A public body may not convene or conduct a meeting by electronic communications unless it has adopted procedures to govern electronic meetings. UDOH's rule for electronic meetings is found in Admin. Code R380-42.

Miscellaneous Provisions

Chance or Social Meetings - do not fall under the statute unless used to circumvent the statute. (Section [52-4-208](#))

Disruption of Meetings - statute allows for removal of person who willfully disrupts the meeting to extent order is seriously compromised. (Sections [52-4-301](#))

Penalties

(Sections [52-4-302](#) and [52-4-305](#))

Open Meetings - Any final action taken in a meeting that is in violation of certain open-meeting provisions of OPMA is voidable by a court.

Closed Meetings - It is a class B misdemeanor to knowingly or intentionally violate the closed meeting provisions of OPMA.

Definitions (Section [52-4-103](#))

Meeting means a convening of a public body with a quorum present to discuss, receive public comment about, or act upon a matter over which the public body has jurisdiction or advisory power.

Meeting does not mean a chance or social gathering or a convening of a public body that has both legislative and executive responsibilities in certain circumstances.

Public Body means an administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

- is created by the Utah constitution, state statute, rule, ordinance, or resolution;
- expends, disburses, or is supported in whole or in part by tax revenue; and
- is vested with the authority to make decisions regarding the public's business.

Public body does not include a political party, political group, or political caucus, or a conference committee, rules committee, or sifting committee of the Legislature.